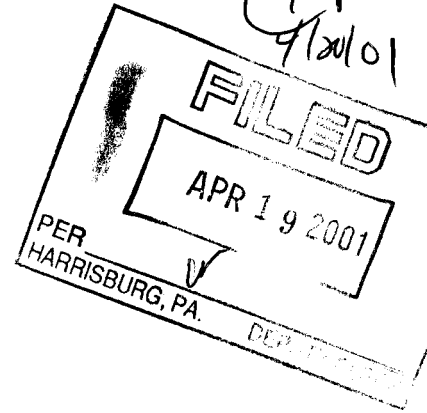


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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DARRELL G. OBER,

Plaintiff

vs.

PAUL EVANKO, MARK
CAMPBELL, THOMAS COURY,
JOSEPH WESTCOTT,
HAWTHORNE CONLEY, AND
JOANNA REYNOLDS

Defendants

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NO. 1: CV-01-0084
✓(Judge Caldwell)

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

**DEFENDANTS' MOTION TO DISMISS OR
STRIKE PLAINTIFF'S AMENDED COMPLAINT**

AND NOW, pursuant to Fed. R. Civ. P. 12(b)(6) and (f), the defendants, by and through their attorneys, Syndi L. Guido, Deputy General Counsel, and Joanna N. Reynolds, Assistant Counsel, move to dismiss or strike plaintiff's amended complaint and state:

1. Plaintiff is a Captain in the Pennsylvania State Police currently serving as Director of the Administrative Division of the Bureau of Liquor Control Enforcement.

2. On January 16, 2001, plaintiff filed a complaint against defendants Paul Evanko, Mark Campbell, Thomas Coury, Joseph Wescott, and Hawthorne Conley.

3. On March 16, 2001, defendants filed a motion to dismiss all claims. A copy was served on plaintiff's counsel that same day by mail.

4. On April 2, 2001, plaintiff filed a motion to amend the complaint and an amended complaint, which were received by defendants' counsel on April 5, 2001.

5. Defendants do not contest the fact that plaintiff has a right to amend his complaint as provided for in Fed.R. Civ. P. 15(a).

6. Plaintiff's amended complaint adds Joanna Reynolds, Esquire (counsel to the other defendants) as a defendant.

7. Plaintiff alleges that Joanna Reynolds has violated his civil rights by composing a "fraudulent brief which falsely represented that PSP Administrative Regulation AR 1-1.02 had indicated that Ober was in error and didn't follow regulations." (Amended Complaint, Introduction).

8. Pursuant to Fed. R. Civ. P. 9(b), all averments of fraud must state the circumstances constituting that fraud with particularity. Plaintiff has not met that requirement. Instead, deliberately ignoring facts known to him, plaintiff unjustifiably accuses Ms. Reynolds and the other defendants of illegally conspiring to alter regulations,

intentionally misrepresenting facts to the Court, and removing the regulations' "historic file" to hide supposedly illegal conduct. (Amended Complaint, ¶¶ 52-56).

9. Plaintiff has requested compensatory and punitive damages.

10. The claims against defendants Evanko, Campbell, Coury, Wescott, and Conley must be dismissed for the reasons set forth in their motion to dismiss and supporting brief, which were filed on March 16, 2001, and are incorporated herein by reference.

11. Plaintiff's claims against Joanna Reynolds, as well as the latest conspiracy claims against the other defendants, must be dismissed because plaintiff has not stated a claim upon which relief can be granted.

12. To the extent the defendants have been sued in their individual capacities, plaintiff's claims must be dismissed because the defendants are entitled to qualified immunity.

13. To the extent the defendants have been sued in their official capacities, plaintiff's suit is barred by the Eleventh Amendment and state sovereign immunity.

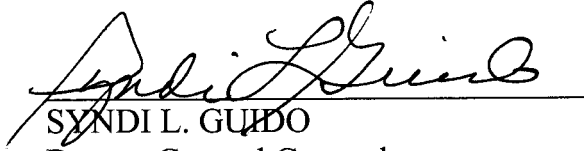
WHEREFORE, defendants ask this Court to dismiss plaintiff's amended complaint in its entirety. Alternatively, defendants ask this Court to strike the scandalous

and defamatory conclusions set forth in the introductory paragraph and paragraphs 52 through 56 of plaintiff's amended complaint.

Respectfully submitted,

JAMES M. SHEEHAN
General Counsel
Commonwealth of Pennsylvania

By:


SYNDI L. GUIDO
Deputy General Counsel
Governor's Office of General Counsel
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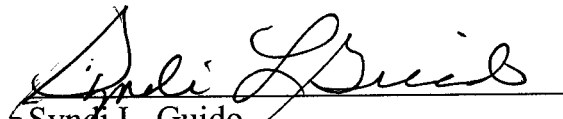
Dated: April 19, 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DARRELL G. OBER,	:	
	:	
Plaintiff	:	NO. 1: CV-01-0084
	:	(Judge Caldwell)
vs.	:	
	:	
	:	CIVIL ACTION - LAW
PAUL EVANKO, MARK	:	
CAMPBELL, THOMAS COURY,	:	JURY TRIAL DEMANDED
JOSEPH WESTCOTT,	:	
HAWTHORNE CONLEY, AND	:	
JOANNA REYNOLDS	:	
Defendants	:	

CERTIFICATE OF NONCONCURRENCE

Undersigned counsel for the defendants hereby certifies that she sought the concurrence of plaintiff's counsel, Don Bailey, in this motion to dismiss or strike plaintiff's amended complaint. Mr. Bailey was unavailable. Accordingly, counsel presumes that he does not concur in defendants' motion.


Syndi L. Guido
Deputy General Counsel

Governor's Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101
(717) 783-6563

Dated: April 19, 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DARRELL G. OBER,

Plaintiff

vs.

PAUL EVANKO, MARK
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Defendants

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NO. 1: CV-01-0084
(Judge Caldwell)


CIVIL ACTION - LAW

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I hereby certify that, on this date, I served a copy of defendant's motion to dismiss or strike plaintiff's amended complaint upon plaintiff's counsel by First Class Mail, U.S. Postal Service, addressed as follows:

Don Bailey, Esquire
4311 North 6th Street
Harrisburg, PA 17110


Syndi L. Guido
Deputy General Counsel

Governor's Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101
(717) 783-6563

Dated: April 19, 2001